

UNITED STATES COURT OF APPEALS

AUG 27 1998

TENTH CIRCUIT

PATRICK FISHER
Clerk

ROBERT A. ARCHULETA,

Petitioner - Appellant,

v.

ROBERT FURLONG; ATTORNEY
GENERAL OF THE STATE OF
COLORADO,

Respondents - Appellees.

No. 98-1092
(D.C. No. 97-S-1790)
(District of Colorado)

ORDER AND JUDGMENT*

Before **ANDERSON, McKAY** and **LUCERO**, Circuit Judges.

Petitioner seeks a certificate of appealability, see 28 U.S.C. § 2253(c), in order to appeal the denial of his 28 U.S.C. § 2254 habeas petition, in which he sought relief from sentences imposed in Colorado after he was twice convicted for aggravated robbery. The federal district court, accepting the magistrate

* The case is unanimously ordered submitted without oral argument pursuant to Fed. R. App. P. 34(a) and 10th Cir. R. 34.1.9. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

judge's report and recommendation, concluded that petitioner had failed to exhaust the state remedies available to him. See 28 U.S.C. § 2254(b)(1).

After careful consideration of the record, we **DENY** petitioner's application for a certificate of appealability for substantially the reasons stated by the district court in its order denying habeas relief dated February 27, 1998. We therefore **DISMISS** this appeal.

The mandate shall issue forthwith.

ENTERED FOR THE COURT

Carlos F. Lucero
Circuit Judge